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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,952

09/16/2003

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RSW920030153US1 (118)

3845

46320

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10/28/2008

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BOCA RATON, FL 33487

EXAMINER

VERDI, KIMBLEANN C

ART UNIT

PAPER NUMBER

2194

MAIL DATE

DELIVERY MODE

10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/663,952	Applicant(s) CHOUDHARY ET AL.	
	Examiner KimbleAnn Verdi	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-18 are pending in the current application.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-10 and 11-14 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. Claims 1-3 and 11-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-3 and 11-14 are directed to a process (method), however, the process does not include a physical structure and are not tied to another statutory class, as such the claims are not directed to statutory subject matter.

In contrast, a “computer implemented method” is a process claim with defined structural and functional interrelationships and tied to machine statutory class and therefore directed to statutory subject matter.

Appropriate correction or amendment is required.

4. Claims 4-10 recite a “A user centric policy creation and enforcement system” ' however, it appears that an a user centric policy creation and enforcement system would reasonably be interpreted by one of ordinary skill in the art as software, per se

since the body of the claim appears to be software. Applicant claims a policy interface unit and a plurality of user interface views, as described by Applicant's specification, appear to be software devices (i.e. data structures) which are functional descriptive material. However, function descriptive material is nonstatutory when claimed as descriptive material per se. Applicant describes the functionality of a policy interface unit and a plurality of user interface views but does not disclose any hardware structure. As such, it is believed that a user centric policy creation and enforcement system of claims 4-10 is reasonably interpreted as functional descriptive material, per se and non statutory.

Appropriate correction or amendment is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-8, and 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellerstein et al. (hereinafter Hellerstein) (U.S. Publication No. 2002/0073195 A1) in view of Reddy et al. (hereinafter Reddy) (U.S. Publication No. 2002/0091753 A1).

7. As to claim 1, Hellerstein teaches the invention substantially as claimed including a user centric policy creation and enforcement method comprising the steps of:

establishing correlations between said observed state changes and action invocations (paragraphs [0023] and [0026]);

formulating rules in a policy based upon user selected ones of said established correlations (paragraph [0062]), each of said rules specifying a state change in at least one of said applications (paragraph [0044]), and at least one resulting action invocation in at least one other of said applications (paragraph [0018]); and

applying said policy to automatically respond to each subsequently observed state change with a specified action invocation (paragraph [0049]).

8. Hellerstein does not explicitly disclose observing state changes and action invocations in disparate applications through visual views of said applications.

9. However Reddy discloses observing state changes and action invocations in disparate applications through visual views of said applications (paragraph [0026]).

10. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the Event Management System of Hellerstein with the teachings of Application Monitoring and Management System from Reddy because this feature would have provided a mechanism that allows an entity to remotely monitor

Art Unit: 2194

and manage a number of applications that are executing on a number of different computer systems associated with a number of different domains (paragraph [0006]).

11. As to claim 3, Hellerstein teaches wherein said step of establishing comprises the steps of:

noting a time for each of said observed state changes (paragraphs [0003]-[0004]);

further noting a time for each of said action invocations (paragraph [0049] and [0057]); and,

correlating said observed state changes with said action invocations based upon said noted times (e.g. generating rules from historical event data, paragraph [0049] and [0051]).

12. As to claim 4, this claim is rejected for the same reasons as claim 1 since claim 4 recites the same or equivalent invention, see the rejection to claim 1 above.

13. As to claim 5, Hellerstein as modified teaches the system of claim 4, wherein said user interface views comprise portlet views (paragraphs [0006] and [0015] of Reddy).

Art Unit: 2194

14. As to claim 6, Hellerstein as modified the system of claim 4, wherein said policy interface unit is disposed within an integrated solutions console (paragraphs [0006] and [0015] of Reddy).

15. As to claim 7, this claim is rejected for the same reasons as claim 1 since claim 7 recites the same or equivalent invention, see the rejection to claim 1 above.

16. As to claim 8, this claim is rejected for the same reasons as claim 1 since claim 8 recites the same or equivalent invention, see the rejection to claim 1 above.

17. As to claim 10, this claim is rejected for the same reasons as claim 3 since claim 10 recites the same or equivalent invention, see the rejection to claim 3 above.

18. As to claim 11, this claim is rejected for the same reasons as claim 1 since claim 11 recites the same or equivalent invention, see the rejection to claim 1 above.

19. As to claim 12, this claim is rejected for the same reasons as claim 4 since claim 12 recites the same or equivalent invention, see the rejection to claim 4 above.

20. As to claim 13, Hellerstein teaches the method of claim 11, further comprising the step of enforcing said policy in said at least one other policy interface unit (paragraph

Art Unit: 2194

[0065]) to automatically respond to each subsequently observed state change with a specified action invocation (paragraph [0049]).

21. As to claim 14, Hellerstein as modified teaches the method of claim 13, further comprising the step of limiting said enforcing of said policy in said at least one other policy interface unit based upon pre-defined permissions (paragraphs [0021]-[0023] of Reddy).

22. As to claims 15-18, these claims are rejected for the same reasons as claims 11-14 respectively, since claims 15-18 recite the same or equivalent invention, see the rejections to claims 11-14 above.

23. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellerstein et al. (hereinafter Hellerstein) (U.S. Publication No. 2002/0073195 A1) in view of Reddy et al. (hereinafter Reddy) (U.S. Publication No. 2002/0091753 A1) as applied to claims 1 and 8 above, and further in view of Srinivasa et al. (hereinafter Srinivasa) (U.S. Patent 6,965,900 B2).

24. As to claim 2, Hellerstein as modified by Reddy does not explicitly teach wherein said step of observing comprises the steps of:

page crawling markup defining a visual view of said applications; and,

demarcating segments of said markup as segments which visually indicate state changes in said applications.

25. However Srinivasa teaches wherein said step of observing comprises the steps of:

page crawling (crawling agents called category agents 120a-120n, 122a-122n, Fig. 3, lines 38-42) markup defining a visual view of said applications (Essential Dimension Markup Language and Event Markup Language, col. 9, lines 35-40); and, demarcating (e.g. marking) segments of said markup as segments which visually indicate state changes (e.g. event description) in said applications (sequence marked as potential event description, col. 9, lines 42-44).

26. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have further modified the Event Management System of Hellerstein as modified by Reddy with the teachings of page crawling and demarcating (e.g. marking) from Srinivasa because these features would have provided the Web-based Enterprise Management environment with a special markup language to identify primary components (used to detect events) between the HTML/XML tags of a document (event extraction 90, Fig. 2, col. 9, lines 35-38) and category agents (web crawler) programmed to search for HTML and XML text (col. 10, lines 32-34).

27. As to claim 9, this claim is rejected for the same reasons as claim 2 since claim 9 recites the same or equivalent invention, see the rejection to claim 2 above.

Response to Arguments

28. Applicant's arguments filed June 29, 2008 have been fully considered but they are not persuasive.

29. In response to the Non-Final Office Action dated March 3, 2008, applicant argues in regards to claims 1-18:

(1) For the Examiner to assert that a policy interface unit and a plurality of user interface views "appear to be data structures," evidences a gross misunderstanding of fundamental aspects of computing. A policy interface unit or interface views may use/modify/create a data structure, but these devices, themselves, are not data structures. In this regard, Applicants are shocked that the Examiner would make such an assertion (page 5, lines 13-17).

In response to argument (1), examiner respectfully disagrees and notes that a policy interface unit and a plurality of user interface views, as described by Applicant's specification, appear to be software devices (i.e. data structures) which are functional descriptive material, since there is no associated hardware corresponding to these

devices described in Applicant's specification. See the 35 U.S.C. 101 rejection to claims 4-10 above.

(2) Regarding paragraph [0023] of Hellerstein, although Applicants acknowledge that this paragraph refers to constructing correlation rules, this passage is silent as to these rules being based upon both observed state changes and action invocations (page 2, lines 19-21). But absent from the Examiner's cited passages is a teaching that the correlation rules are based upon observed state changes. Thus, Hellerstein fails to teach the limitations for which the Examiner is relying upon Hellerstein to teach (page 3, lines 2-3).

In response to argument (2), examiner respectfully disagrees and notes that the Hellerstein discloses correlation rules are based upon observed state changes. Hellerstein teaches the event management system 110 updates the event database (Event DB) 180 with newly received events and reads this database to do event correlation based on a rule database (Rule DB) 185 (paragraph [0044], lines 1-3). For example the newly received events added to the Event DB are read for event correlation can be interpreted as correlation rules are based upon observed state changes since the event management system 110 receives events generated by computing devices of various types (i.e. observed state changes, paragraph [0043], lines 3-5) and an analyst 120 uses an event management decision support system 130

of the present invention to develop the correlation rules used by the management system, which requires reading historical event data in the Event DB and writing to the Rule DB (paragraph [0044], lines 3-7). Hellerstein teaches whereby correlation rules are constructed comprising the steps of: (1) the analyst marking one or more event groupings; 2) the machine learning the left-hand side for event patterns (paragraph [0023], lines 5-7). The visualization system in conjunction with event data access provide a mechanism for analysts to select event groupings that are then translated into left-hand sides by the pattern learner (paragraph [0026], lines 4-6).

(3) On page 5 of the Third Office Action, the Examiner relied upon paragraph [0049] to teach the claimed "applying said policy to automatically respond to each subsequently observed state change with a specified action invocation." Applicants respectfully disagree. This passage refers to generating rules, but Applicants are unclear as to where this passage specifically teaches applying the policy to automatically respond to each subsequently observed state change with a specified action invocation, as claimed (page 11, lines 10-15).

In response to argument (3), examiner respectfully disagrees and notes that the Hellerstein discloses applying the policy to automatically respond to each subsequently observed state change with a specified action invocation. Hellerstein teaches applying the rule's left-hand side to historical event data, selecting instances of the patterns

specified by the rule (paragraph [0049], lines 14-16). For example applying the rule's left-hand side to historical event data can be interpreted as applying the policy to automatically respond to each subsequently observed state change with a specified action invocation since by doing so the operations staff can determine if the situations for which the rule is intended are in fact those that will be selected in production (paragraph [0049], lines 16-18), once evaluated the machine places the new rule in the Rule DB associated with the event management system (i.e. rule placed in production, applied policy, paragraph [0049], lines 18-20). In addition, if rules are determined to be a normal pattern, the rule is filtered by the event management system during real-time activities (paragraph [0056], lines 6-8).

(4) Applicants have been able to identify that Reddy teaches that a log of events is kept. However, Applicants have been unable to find a teaching within Reddy of an action invocation being observed, as claimed. Thus, Reddy fails to teach the limitations for which the Examiner is relying upon Reddy to teach (page 12, lines 1-4).

In response to argument (4), examiner respectfully disagrees and notes that the Reddy discloses observing state changes and action invocations in disparate applications. Reddy teaches events service 80 provides the capability for a user of portal 20 to subscribe to particular notifications from monitors 74, such as notifications of state changes for a particular application 42 or an alert regarding an application 42 (paragraph [0020], Figure 2). For example an alert regarding an application can be

Art Unit: 2194

interpreted as an observed action invocation since an alert is an action that occurs on an application error (i.e. state change) (paragraph [0020], lines 12-20) and Monitors 74 may perform any appropriate monitoring and management functions (i.e. observing an action invocation or alert, paragraph [0019], lines 20-21).

(5) As such, Applicants are unclear as to why one having ordinary skill in the art would have been impelled to modify Hellerstein in view of Reddy to obtain these alleged benefits since these alleged benefits do not appear to be additive to the teachings of Hellerstein (page 12, lines 25-28).

In response to argument (5), examiner respectfully disagrees and notes that Examiner applied the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), for determining obviousness under 35 U.S.C. 103, in light of KSR. The motivation for the combination is provided on page 6 of the Non-Final Office Action dated April 3, 2008. Examiner specifically provided analysis as required.

(6) Regarding claim 3, the Examiner referred to paragraph [0003] of Hellerstein as to the claimed "noting a time for each of said observed state changes." This passage, however, refers to events and not state changes, as claimed. Thus, Hellerstein further fails to teach the limitations for which the Examiner is relying upon Hellerstein to teach (page 4, lines 16-19).

In response to argument (6), examiner respectfully disagrees and notes that the Hellerstein discloses noting a time for each of said observed state changes. Hellerstein teaches an event message contains multiple attributes, especially the time at which the event was generated (paragraph [0003]). For example an event message contains multiple attributes, especially the time at which the event was generated can be interpreted as noting a time for each of said events (e.g. observed state changes) since the event message is parsed to translate it into a normalized event (paragraph [0004]) . Examples of events are exceptional conditions generated by a computing device (paragraph [0003]), like a port-down or port-up event (paragraph [0056], lines 4-5), which can be interpreted as an observed state change in a computing device since the state of the port has been changed. In addition, Applicant's specification describes an event as a state change (paragraph [0031] Applicant's specification).

(7) Applicants respectfully submit that the Examiner's citation of Srinivasa to teach the limitation recited in claims 2 and 9 is inappropriate. At the outset, Applicants note that the "event" described by Srinivasa does not corresponding to the claimed "state changes in said applications." Instead referring to the Background of the Invention, Srinivasa describes an event as "sporting events and entertainment events and the like." Thus, the identification of the event in Srinivasa by page crawling does not correspond to the claimed invention (page 5, lines 8-13).

In response to argument (7), examiner respectfully disagrees and notes that the Hellerstein as further modified by Srinivasa discloses demarcating segments of said markup as segments which visually indicate state changes in said applications. Hellerstein as further modified by Srinivasa teaches if the markup page contains "TLE" patterns close in proximity then each sequence, in a markup page, can be marked as a potential event description. For example if the markup page contains "TLE" patterns close in proximity then each sequence, in a markup page (web document), can be marked as a potential event description which can be interpreted as demarcating segments of said markup as segments which visually indicate event descriptions (e.g. state changes in said applications) since the event description is event information extracted from tags in some existing markup language such as HTML or XML (col. 9, lines 25-45) and event descriptions are identified by a "TLE" pattern and then marked as a potential event description (col. 9, lines 35-45), which can be interpreted as markup which visually indicates state changes in said applications. In addition, Applicant's specification describes a state change as being represented as markup language in an XML document (paragraph [0025] Applicant's specification) in reference to demarcating segments of said markup as segments which visually indicate state changes in said applications. In this regard the event descriptions of Srinivasa and the state changes of the Applicant are both markup language.

(8) Specifically Srinivasa is non-analogous prior art with no apparent relations to either the claimed invention of the other prior art. Instead,

Srinivasa teaches a method for data mining documents for a "listing of events scheduled in the future of a selected interest to the user."

Applicants' position is that the Examiner has neither established that Srinivasa is with the same field of endeavor nor established that Srinivasa is reasonably pertinent to the particular problem which the invention is involved (page 14, lines 18-23).

In response to applicant's argument (8) that Srinivasa is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Srinivasa discloses a web crawler that detects events based on the co-occurrence patterns of the "T", "L", and "E" in a markup language document (col. 9, lines 26-34 of Srinivasa). In addition, Applicant's specification describes a state change as being represented as markup language in an XML document (paragraph [0025] Applicant's specification) in reference to demarcating segments of said markup as segments which visually indicate state changes in said applications. In this regard the event descriptions of Srinivasa and the state changes of the Applicant are both markup language.

(9) **Moreover, along the same lines, the paragraphs identified by the Examiner do not teach that the "events" are associated with applications** (i.e., a plurality of applications) (page 5, lines 13-15).

In response to argument (9), examiner respectfully disagrees and notes that the features upon which applicant relies (i.e., "events" are associated with applications) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

31. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KimbleAnn Verdi whose telephone number is (571)270-1654. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST..

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/

Supervisory Patent Examiner, Art Unit 2195